

Nicole Lavallee (SBN 165755)  
Kristin J. Moody (SBN 206326)  
A. Chowning Poppler (SBN 272870)  
**BERMAN TABACCO**  
44 Montgomery Street, Suite 650  
San Francisco, CA 94104  
Telephone: (415) 433-3200  
Facsimile: (415) 433-6382  
Email: nlavallee@bermantabacco.com  
kmoody@bermantabacco.com  
cpoppler@bermantabacco.com

*Counsel for the Lead Plaintiff Plymouth County Group  
and Co-Lead Counsel for the Class*

[Additional Counsel on Signature Page]

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

IN RE AQUA METALS, INC. SECURITIES  
LITIGATION

Lead Case No.: 4:17-cv-07142-HSG

**STIPULATION AND ~~PROPOSED~~ ORDER  
TO CORRECT NOVEMBER 16, 2020  
ORDER GRANTING MOTION TO  
DISMISS**

This document Relates to:  
All Actions.

Pursuant to Local Rule 7-12, the Parties respectfully request the following:

WHEREAS, the above-captioned action is currently pending before this Court;

WHEREAS, on August 14, 2019, this Court issued an Order Granting in Part and Denying in Part Motion to Dismiss and Motion to Strike (Dkt. 113) (the “August 2019 Order”);

WHEREAS, the August 2019 Order denied Defendants’ motion to dismiss as to Plaintiff’s Count Two for violations of Section 10(b) and Rule 10b-5(a) and (c) scheme liability, and Count Three, Section 20(a) control liability claim, as the 20(a) claims relates to Count Two;

WHEREAS, the August 2019 Order also granted the Defendants’ motion to dismiss as to Plaintiff’s Count One for violations of Section 10(b) and Rule 10b-5(b) misrepresentation, and Count Three for violations of Section 20(a) control liability, as the 20(a) claims relates to Count One, with leave to amend;

Whereas, on September 20, 2019, Plaintiff filed an amended complaint;

Whereas, on November 1, 2019, Defendants moved to dismiss the amended complaint as to Plaintiff’s Count One for violations of Section 10(b) and Rule 10b-5(b) misrepresentation and Count Three for violations of Section 20(a) control liability as the 20(a) claims relates to Count One only (the “Second Motion to Dismiss”);

WHEREAS, on November 16, 2020, this Court issued an Order Granting Motion to Dismiss (Dkt. 141) (the “November 2020 Order”);

WHEREAS, the first sentence under Section V (titled “CONCLUSION”) on page 31, lines 12-14 of the November 2020 Order states, in part, that the Court grants “Defendants’ motion to dismiss the Section 10(b), Rule 10b-5(a) and (c) scheme liability claim and Section 20(a) control person liability claim as it relates to Count One . . . .”;

WHEREAS, the reference to Rule 10b-5(a) and (c) scheme liability claim is a clerical error;

WHEREAS, in order to correct this clerical error, the aforementioned sentence in the November 2020 Order should be corrected to delete the words “Rule 10b-5(a) and (c) scheme liability claim” and replace them with “Plaintiff’s Count One Section 10(b) and Rule 10b-5(b) misrepresentation claim;”

THEREBY, IT IS HEREBY STIPULATED AND AGREED, by and among the parties hereto, that:

1 The first sentence under Section V, on page 31, of the November 2020 Order shall be corrected by  
2 deleting the words “Rule 10b-5(a) and (c) scheme liability claim” and replacing them with “Plaintiff’s Count  
3 One Section 10(b) and Rule 10b-5(b) misrepresentation claim;”  
4

5 IT IS SO STIPULATED.

6 DATED: March 22, 2021

Respectfully submitted,

7 **LEVI & KORSINSKY, LLP**

8 By: /Shannon L. Hopkins

9 Shannon L. Hopkins

10 Stephanie A. Bartone  
11 1111 Summer Street, Suite 403  
12 Stamford, CT 06901  
13 Telephone: (203) 992-4523  
14 Facsimile: (212) 363-7171  
15 Email: shopkins@zlk.com  
16 sbartone@zlk.com

17 Nicole Lavallee  
18 Kristin J. Moody  
19 A. Chowning Poppler  
20 **BERMAN TABACCO**  
21 44 Montgomery Street, Suite 650  
22 San Francisco, CA 94104  
23 Telephone: (415) 433-3200  
24 Facsimile: (415) 433-6382  
25 Email: nlavallee@bermantabacco.com  
26 kmoody@bermantabacco.com  
27 cpoppler@bermantabacco.com

1 Leslie R. Stern  
2 **BERMAN TABACCO**  
3 One Liberty Square  
4 Boston, MA 02109  
5 Telephone: (617) 542-8300  
6 Facsimile: (617) 542-1194  
7 Email: [lstern@bermantabacco.com](mailto:lstern@bermantabacco.com)

8 *Counsel for the Lead Plaintiff Plymouth County Group*  
9 *and Co-Lead Counsel for the Class*

10 DATED: March 22, 2021

Respectfully submitted,

11 **GREENBERG TRAURIG, LLP**

12 By: /s/ Michael R. Hogue  
13 Michael R. Hogue  
14 4 Embarcadero Center, Suite 3000  
15 San Francisco, CA 94111  
16 Telephone: (415) 655-1300  
17 Facsimile: (415) 707-2010  
18 Email: [hoguem@gtlaw.com](mailto:hoguem@gtlaw.com)

19 Robert A. Horowitz (pro hac vice)  
20 Met Life Building, 200 Park Avenue  
21 New York, NY 10166  
22 Telephone: (212) 801-9200  
23 Facsimile: (212) 801-6400  
24 Email: [horowitzr@gtlaw.com](mailto:horowitzr@gtlaw.com)

25 *Counsel for Defendants Aqua Metals, Inc., Thomas*  
26 *Murphy, and Selwyn Mould*

1 DATED: March 22, 2021

Respectfully submitted,

2 **WILSON SONSINI GOODRICH & ROSATI, P.C.**

3 By: Steven M. Schatz  
4 Steven M. Schatz

5 Steven M. Schatz  
6 Dylan Grace Savage  
7 Alexander K. Brehnan  
8 650 Page Mill Road  
9 Palo Alto, CA 94304-1050  
10 Telephone: (650) 49-9300  
11 Facsimile: (650) 565-5100  
12 Email: sschatz@wsgr.com  
13 dsavage@wsgr.com  
14 abrehnan@wsgr.com

15 *Counsel for Defendant Stephen R. Clarke*


**[PROPOSED] ORDER**

It is hereby ordered that:

The first sentence under Section V on page 31 of the Court's November 19, 2020 Order, titled "CONCLUSION," shall be corrected by deleting the words "Rule 10b-5(a) and (c) scheme liability claim" and replacing them with "Plaintiff's Count One Section 10(b) and Rule 10b-5(b) misrepresentation claim."

PURSUANT TO STIPULATION IT IS SO ORDERED.

Dated: 3/23/2021

  
HON. HAYWOOD S. GILLIAM, JR.  
UNITED STATES DISTRICT JUDGE